

STATE OF MICHIGAN
COURT OF APPEALS

In re JUSTIN MICHAEL THOMAS, Minor.

VERNON REEVEY and TRACY REEVEY,

Plaintiffs-Appellants,

v

CHILD AND FAMILY SERVICES,

Defendant-Appellee.

UNPUBLISHED

June 12, 2001

No. 229682

Ingham Circuit Court

Family Division

LC No. 99-003889-AD

Before: Cavanagh, P.J., and Markey and Collins, JJ.

MEMORANDUM.

Plaintiffs appeal as of right from the trial court's dismissal of their adoption petition. At the post-termination review hearing, the trial court instead granted the adoption petition of the minor child's foster mother over that of plaintiffs, the minor child's aunt and uncle. We affirm.

We review a decision to grant or deny an adoption petition for an abuse of discretion. *In re TMK*, 242 Mich App 302, 304; 617 NW2d 925 (2000). An abuse of discretion is found only in extreme cases in which the result is so palpably and grossly violative of fact and logic that it evidences a perversity of will or the exercise of passion or bias. *Phillips v Jordan*, 241 Mich App 17, 29; 614 NW2d 183 (2000). To the extent that our review entails a question of law, we conduct review de novo. *In re TMK, supra*. Four of plaintiffs' five claims of error were neither raised in the court below nor supported by legal authority; therefore, we need not review those issues. *Fast Air, Inc v Knight*, 235 Mich App 541, 549; 599 NW2d 489 (1999); *Samonek v Norvell Twp*, 208 Mich App 80, 86; 527 NW2d 24 (1994).

In any event, we find no error of law or abuse of discretion in the trial court's decision. First, this Court has held that a failure to file an investigation report within three months, as required by MCL 710.46, is not, by itself, sufficient cause to set aside a decision to terminate a father's parental rights, because although the probate code requires a report be filed, it does not contain a penalty for failure to meet the deadline. *In re DaBaja*, 191 Mich App 281, 285-288; 477 NW2d 148 (1991). Further, a plain reading of MCL 710.51(1)-(2) reveals that it does not apply to plaintiffs' cause of action, and did not require a prompt disposition of this case in the

court below. Next, plaintiffs cite no authority for their argument that “in the absence of a sound reason to do otherwise, priority must be given to relatives in contested adoption proceedings” and, in any event, the circuit court determined in this case that there were sound reasons for allowing adoption by a non-relative.

Plaintiffs’ third argument, that the trial court improperly considered their employment, is unfounded. The trial judge found that the parties were not equally suited to care for the child, and the factor tipping the scale in favor of the foster mother over plaintiffs was the foster mother’s availability and commitment to addressing the minor child’s special needs. With regard to plaintiffs’ fourth argument, that the hearing was “rife with hearsay, innuendo, and other forms of incompetent evidence,” plaintiff does not identify specific evidence that was inadmissible, or the specific grounds on which they assert inadmissibility. Finally, contrary to plaintiffs’ assertions that the minor child’s special needs were not substantiated, the record supports the court’s conclusion that the minor child has special needs that require attention.

While the circuit court acknowledged the importance of the minor child’s family and commended his aunt and uncle in their efforts to adopt the child, the court concluded that the child’s foster mother was the best choice to adopt the child. We conclude that the record supports the circuit court’s findings, and that the court did not abuse its discretion in granting the foster mother’s petition. *In re TMK, supra*. See also *In re Robins*, 153 Mich App 484, 488; 395 NW2d 710 (1986) (no abuse of discretion where court could reasonably have granted either adoption petition).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Jeffrey G. Collins